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RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

7
8 UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10
11 READIFY, an Australian Corporation,
12 Plaintiff,
13 v.
14 READIFYBLOG, an individual;
15 Defendant.

C 12 5357
Case No.:

COMPLAINT FOR DEFAMATION
AND INTERFERENCE WITH
PROSPECTIVE ECONOMIC
ADVANTAGE

KAW

Dept:
Judge:

16
17
18 Plaintiff READIFY, an Australian Corporation ("Readify" or "Plaintiff")
19 respectfully submits the following Complaint for defamation, and interference with
20 prospective economic advantage.

21 INTRODUCTION

22 1. Readify brings this action to secure relief against Defendant who
23 currently is, and has been, engaged in an ongoing campaign to defame Readify.

24 2. The actions of the Defendant, as described in greater detail below,
25 constitute defamation and Interference with Prospective Economic Advantage.

26 3. Readify seeks relief barring Defendant from further defaming Readify.
27 Readify further seeks recovery of monetary damages from Defendant for the
28 injuries, if suffered, and continues to suffer, as a result of Defendant's wrongful

1 acts.

2 **PARTIES**

3 4. Plaintiff Readify is an Australian corporation with its principal place
4 of business in Melbourne, Australia.

5 5. Defendant, Readifyblog is a natural person of unknown residence who
6 maintained an Internet blog account with California based Automattic, Inc., which
7 contains his/her real identity.

8 6. Upon identification, Plaintiff will amend this complaint as necessary
9 to substitute the actual name of the Defendant.

10 **JURISDICTION AND VENUE**

11 7. This is a civil action for damages in excess of \$75,000.00 exclusive of
12 interest and costs sounding in defamation and interference with prospective
13 economic advantage.

14 8. Defendant has committed illegal acts that were intended to and did
15 cause harm to Readify in the State of California. Defendant has intentionally
16 directed his/her conduct into and sought to cause injury in the State of California.
17 Venue in this district is proper under 28 U.S.C. §1391 because a substantial part of
18 the events or omissions on which the claims are based occurred in this district.

19 9. Jurisdiction of this Court is invoked pursuant to the provisions of 28
20 U.S.C. §1332(a) as Plaintiff is a subject of a foreign state and, after a reasonable
21 opportunity for further investigation or discovery, Plaintiff will establish that
22 Defendant are residents of either California or another state.

23 10. Venue is proper in this judicial district.

24 **GENERAL ALLEGATIONS**

25 11. Plaintiff, Readify, is an enterprise software developer for large
26 businesses. Plaintiff develops or assists companies in developing software systems
27 and applications which meet a wide array of business needs.

28 12. In order to assemble quality programmers, Readify recruits from a

1 wide range of international candidates. It is critical to Readify's ongoing
2 operations that it is able to recruit talented programmers from across the globe, as
3 the supply of qualified programmers at its headquarters is limited.

4 13. On or about August 23, 2012, Defendant published a defamatory
5 passage (the "Defamatory Post") about Readify on the website
6 <http://readifyblog.wordpress.com> (the "WordPress website"). A true and correct
7 copy of the WordPress website is attached hereto as Exhibit A. WordPress is the
8 trade name for Blog hosting maintained by Automattic, Inc., which is located in
9 this judicial district.

10 14. First, the Defamatory Post is misleading in its title "Readifyblog" in
11 that it implies official association with Plaintiff. The name of the blog plainly
12 suggests that it is a blog which controlled by, or sanctioned by Plaintiff. This
13 would lead a casual visitor to the website to believe that the information contained
14 on the site was endorsed by Plaintiff.

15 15. Further, the Defamatory Post makes two false and libelous claims
16 regarding Plaintiff's business. First, it states that Plaintiff pays below market
17 wages. This false assertion harms Plaintiff in that it would make it more difficult to
18 recruit the necessary employees if they believed that Plaintiff did not pay a
19 competitive wage.

20 16. The other false and misleading statement on the blog is that the foreign
21 consultants hired by Plaintiff are lacking in skills necessary to make them effective
22 consultants. This false assertion harms Plaintiff in that it claims that Plaintiff is not
23 capable of meeting the needs of its customers. Potential or current customers who
24 read this blog might be inclined to not hire or terminate Plaintiff based upon this
25 false information.

26 17. The WordPress website does not promote the ideals of self-expression
27 and free thought. Instead, they appear to have no other purpose but to defame and
28 cause harm the business of Plaintiff Readify. The Defendant clearly intended to

1 remain anonymous in order to hide behind his or her malicious posting.

2 **FIRST CLAIM FOR RELIEF**

3 **(Defamation)**

4 18. Plaintiff realleges and incorporates by reference the allegations
5 contained paragraphs 1 through 17 above as if the same were set forth herein in
6 full.

7 19. The Defamatory Post, created by Defendant and published on the
8 WordPress website, contains numerous statements that were and continue to be
9 materially false and intended to injure Plaintiff's reputation.

10 20. The contents of the Defamatory Post malign Plaintiff in its trade and
11 would tend to expose Plaintiff to expose it to damaged reputation and standing to
12 both its potential employees and its potential customers.

13 21. All of these statements are intentionally defamatory and libelous *per*
14 *se* under California law.

15 22. As a result of the intentionally false and malicious statements made by
16 Defendant, Plaintiff has suffered economic losses in its profession, has suffered
17 irreparable injury to its reputation, and has lowered it in the estimation of the
18 community to which it belongs.

19 23. As a direct and proximate result of the false publication, Readify has
20 been exposed to contempt and obloquy and caused it to be injured in its business
21 and otherwise injured and damaged in an amount to be proven at time of trial.

22 24. Defendant's illegal and malicious conduct has caused and is causing
23 substantial and irreparable harm to Plaintiff's and professional reputations in an
24 amount not capable of determination, and, unless restrained, will cause further
25 irreparable injury, leaving Plaintiff with no adequate remedy at law.

26 **SECOND CLAIM FOR RELIEF**

27 **(Interference With Prospective Economic Advantage)**

28 25. Defendant's actions as alleged herein constitute intentional

1 interference with Plaintiff's prospective economic advantage in violation of
2 California law.

3 26. Plaintiff had valid existing economic relationships, which had a
4 probability of future economic benefit to Plaintiff, with its prospective employees
5 and customers as identified above. Defendant has intentionally and willfully
6 interfered, and attempted to interfere, with the prospective economic relationships
7 existing between Plaintiff and its customers.

8 27. On information and belief, Plaintiff alleges Defendant knew of the
9 existence of the valid economic relationships between Plaintiff and each and every
10 one of its customers, and that Defendant intentionally interfered with such
11 relationships. Defendant purposefully and intentionally interfered with such
12 prospective sales, by falsely and maliciously stating that Plaintiff underpays its
13 employees and that Plaintiff's employees are incapable of adequately servicing its
14 clients' needs.

15 28. Based on information and belief, Plaintiff alleges that Defendant knew
16 that his/her actions were certain, or substantially certain, to disrupt the existing
17 economic relationships between Plaintiff and its potential employees and
18 customers.

19 29. The aforementioned economic relationships between Plaintiff and its
20 customers were actually breached and/or disrupted as a result of Defendant's
21 intentional and purposeful acts. The continuation of these existing economic
22 relationships would have been extremely beneficial to Plaintiff, in that Plaintiff
23 expected to continue to receive the benefit of ongoing and future work product
24 from employees and sales from clients, and expected to draw further economic
25 benefit from future dealings with each of these parties.

26 30. As a proximate result of Defendant's conduct, Plaintiff has suffered
27 harm, including loss of revenue and other financial benefits, in an amount to be
28 proven at the time of trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Readify prays for relief against Defendant as follows:

1. For a preliminary and permanent injunction restraining and enjoining Defendant, and their agents, servants, employees, and all others in active concert or participation with them, from further disparagement, defamation, or making false and/or misleading representations of, or related to, Readify, as alleged herein;

2. For the Court to order Defendant to specifically issue, file, and/or publish its own statement of retraction or correction, in the same manner and with the same scope of dissemination as the publication of the false statements;

3. For an award of damages suffered by Readify, as alleged herein, in an amount to be proven at time of trial, plus interest;

4. For an award of punitive and exemplary damages in an amount to be proven at trial sufficient to punish and deter Defendant;

5. For an award of attorneys' fees;

6. For costs of suit incurred herein; and

7. For such other and further relief as the court may deem just and proper.

DATED: October 17, 2012

PROCOPIO, CORY, HARGREAVES &
SAVITCH LLP

By: 

Frederick K. Taylor
Attorneys for Plaintiff,
Readify, an Australian Corporation